

REFERENCE TITLE: **civil forfeiture monies; general fund**

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HB 2549**

Introduced by  
Representatives Sinema: Aguirre A, Alvarez, Gallardo, Lopes, Lopez L,  
Lujan, Meza, Miranda B, Prezelski, Rios P, Tom

AN ACT

AMENDING SECTION 13-4315, ARIZONA REVISED STATUTES; RELATING TO FORFEITURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 13-4315, Arizona Revised Statutes, is amended to  
3 read:

4           13-4315. Allocation of forfeited property

5       A. Any property, including all interests in property, **THAT IS**  
6 forfeited to the state under this title shall be transferred as requested by  
7 the attorney for the state to the seizing agency or to the agency or  
8 political subdivision employing the attorney for the state, which may do any  
9 of the following:

10      1. Sell, lease, lend or transfer the property to any local or state  
11 government entity or agency or political subdivision, law enforcement agency  
12 or prosecutorial agency or any federal law enforcement agency **which THAT**  
13 operates within this state for official federal, state or political  
14 subdivision use within this state, with expenses for keeping and transferring  
15 such property to be paid by the recipient. Property may not be allocated for  
16 official use if the fair market value of the property substantially exceeds  
17 the agency's probable cost of purchasing other property equally suited for  
18 the intended official use. Property that is allocated for official use may  
19 not be assigned for use by any person who supervised or exercised discretion  
20 in its forfeiture unless the use is approved in writing by the head of the  
21 agency.

22      2. Sell forfeited property by public or otherwise commercially  
23 reasonable sale with expenses of keeping and selling the property and the  
24 amount of all valid interests established by claimants paid out of the  
25 proceeds of the sale with the balance paid into the **anti-racketeering fund of**  
**the state or of the county in which the political subdivision seizing the**  
**property or prosecuting the action is located STATE GENERAL FUND.** A sale of  
26 forfeited property may not be made to any employee of the seizing agency, any  
27 person who participated in the forfeiture, any employee of a contractor  
28 selling the property on behalf of the seizing agency or any member of the  
29 immediate family of any of these employees or persons.

30      3. Destroy or use for investigative purposes any illegal or controlled  
31 substances or other contraband at any time more than twenty days after  
32 seizure, on written approval of the attorney for the state, preserving only  
33 such material as may be necessary for evidence.

34      4. Sell, use or destroy all raw materials, products and equipment of  
35 any kind used or intended for use in manufacturing, compounding or processing  
36 a controlled substance.

37      5. Compromise and pay claims against property forfeited pursuant to  
38 **any provision of** this section.

39      6. Make any other disposition of forfeited property authorized by law  
40 for the disposition of property of the state, government entity, agency or  
41 political subdivision.

1       B. Notwithstanding subsection A of this section or any other provision  
2 of law to the contrary:

3       1. If the property forfeited is money, and a law enforcement agency  
4 can specifically identify monies as being from its investigative funds or as  
5 being exchanged for property from its investigative property, the monies  
6 shall be remitted to the investigative fund. If there are additional  
7 forfeited monies or monies tendered on satisfaction by an interest holder  
8 ~~which THAT~~ cannot be specifically identified, the court shall order the  
9 monies returned to each law enforcement agency that makes a showing of costs  
10 or expenses ~~which THAT~~ it incurred in connection with the investigation and  
11 prosecution of the matter and shall order all excess monies remaining after  
12 such returns deposited in the ~~anti-racketeering fund of this state or of the~~  
13 ~~county in which the political subdivision seizing the monies or prosecuting~~  
14 ~~the action is located, established pursuant to section 13-2314.01 or~~  
15 ~~13-2314.03 STATE GENERAL FUND.~~

16      2. If the property declared forfeited is an interest in a vehicle, the  
17 court shall order it forfeited to the local, state or other law enforcement  
18 agency seizing the vehicle for forfeiture or to the seizing agency.

19      C. Monies in any anti-racketeering fund established pursuant to this  
20 title may be used, in addition to any other lawful use, for:

21       1. The payment of any expenses necessary to seize, detain, appraise,  
22 inventory, protect, maintain, preserve the availability of, advertise or sell  
23 property that is subject to forfeiture and that is seized, detained or  
24 forfeited pursuant to this title or of any other necessary expenses incident  
25 to the seizure, detention, preservation or forfeiture of the property. The  
26 payments may include payments for contract services and payments to reimburse  
27 any federal, state or local agency for any expenditures made to perform the  
28 functions of the seizing agency.

29       2. The payment of awards for information or assistance leading to a  
30 civil or criminal proceeding under this title.

31       3. The payment of compensation from forfeited property to injured  
32 persons as provided in section 13-4311, subsection N, paragraph 3.

33      D. Each attorney for the state shall submit a copy of each forfeiture  
34 judgment, including each order of forfeiture, to the Arizona criminal justice  
35 commission within sixty days after the forfeiture judgment becomes final or  
36 after the conclusion of appellate review, if any.